CONSTITUTIONAL LAW—SCHOOL TEACHERS' PENSION FUND.—In an appeal from a judgment directing and commanding the defendant as county treasurer to set aside from the county tuition fund a sum equal to ten cents for each child of school age and to transmit the same to the state treasurer to be credited to "the teachers' insurance and retirement fund, *held,* under statutes of North Dakota that the act was constitutional. *State ex rel Haig* v. *Hauge* (N. Dak., 1917), 164 N. W. 289.

The constitution of North Dakota provides: "No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied" and, "Neither the state nor any county, city, township, town, school district, or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for the necessary support of the poor * * *." There are two classes of teachers' pension fund cases in which this question arises, depending upon the sources of their funds. In one class the fund is created by statutes which provide that a certain per cent of the teachers' salary shall be deducted and placed in the fund, and in the other class the fund is created by taxation. In some instances the fund is supplemented by state appropriations, gifts and bequests. This question involves, "the due process clause" of the Constitution of the United States. It has been held that a statute requiring the deduction of a certain per cent from a teacher's salary for such purpose or fund is unconstitutional, as interfering with the teacher's constitutional right to use his property for his own benefit. *State* v. *Hubbard,* 22 Oh. Circ. Ct. 252, 64 N. E. 109. That case takes the view that the amounts retained are either taxes imposed upon teachers and invalid because not uniform, or they are a taking of private property without due process of law. The case, however, is unsupported by authority. On the other hand there are many cases which hold that such a statute is a part of the contract and that by the terms of the agreement the salary to be paid is a net and not a gross amount, therefore, there is no taking of property. *Pennie* v. *Reis,* 80 Cal. 266; *Ball* v. *Trustees,* 71 N. J. L. 64. In the second class of cases the question is entirely one of taxation. In order that a tax be valid, the tax must be for a public purpose and the classification of persons or property which it concerns, reasonable. A tax in aid of the construction of a railroad is for a public purpose in practically all jurisdictions except Michigan. *People* v. *Salem Twp.,* 20 Mich. 452. A tax to aid in the construction of a grist mill is for a public purpose. *Burlington Twp.* v. *Beasley,* 94 U. S. 310. It would seem to follow that a tax creating a fund for pensioning teachers was closely enough connected with the general subject of education to be considered as for a public purpose and not as a gift to any person or class of persons. In *Fellows* v. *Connelly,* (Mich., 1916), 160 N. W. 581, it was held that the act providing for a fund for pensions to school teachers did not violate the constitutional provision forbidding extra compensation to public employees, since it extends an equal inducement to teachers already under contract and those who are induced by the act to enter public service. In the present case the objection is that it takes money from a fund raised for one purpose and applies it to another purpose and this in violation of the

state constitution. This feature only adds the question of interpretation. The fund was originally created for school purposes. In view of the many decisions as to what is a public purpose in taxation it would seem, that this decision which says that the creation of a teachers' pension fund is germane to the general purposes for which the tax was authorized is reasonable. An extended discussion of the constitutionality of teachers' pensions will be found in 11 MICH. L. REV. 451, and 12 MICH. L. REV. 105.

CONSTITUTIONAL LAW—TAXATION OF FOREIGN CORPORATIONS—PRIVILEGE OF DOING DOMESTIC BUSINESS.—A statute provided that every foreign corporation should pay the commonwealth, in addition to a tax imposed by a previous statute, an excise tax of one-hundredth of one per cent of the value of its capital stock in excess of $10,000,000, the entire authorized capital stock to be used for a measure of the tax. Plaintiff sought to recover money paid under such act. *Held,* the act is constitutional and the tax is collectible by the state. *International Paper Co.* v. *Commonwealth,* (Mass., 1917), 117 N. E. 246.

Cases in the early history of corporation law held that a state had the power to tax a foreign corporation for the privilege of engaging in domestic business, even though such corporation was engaged at the same time in interstate commerce. *Bank of Augusta* v. *Earle,* 13 Pet. 519; *Western Union Tel. Co.* v. *Alabama,* 132 U. S. 472. But in *Western Union Tel. Co.* v. *Kansas,* 216 U. S. 1, the court declared, a statute which taxed the foreign corporation by a graduated scale for the privilege of doing intrastate business, unconstitutional, as violative of the Fourteenth Amendment and burdening interstate commerce, because the tax was considered by the court as a tax upon the interstate business as well as the domestic business. See 8 MICH. L. REV. 572. Later, in *S. S. White Dental Mfg. Co.* v. *Massachusetts,* 231 U. S. 68, a tax for the same privilege with a fixed maximum of $2,000, the tax was held valid and the Kansas case is distinguished on the ground that the interstate and local business was not so connected as they were in the Kansas case. See 12 MICH. L. REV. 210. The instant case goes further, and the pendulum is swinging back to where it was in the early history of corporation law. In the principal case there was no maximum; a tax measured by the entire capital stock, though it had only a small portion of its property within the state, was to be paid for the privilege of doing domestic business. Inasmuch as the power to tax carries with it the power to destroy, this decision holds that the state may totally prohibit the doing of intrastate business by a foreign corporation carrying on interstate commerce. The case will undoubtedly be carried to the United States Supreme Court and it will be of interest to note whether the dissenting opinion by HOLMES, J., in the Kansas case will at last come into its own.

CONTRACTS—RESTRICTION UPON RESALE PRICE.—Plaintiff, as manufacturer of Ford Automobiles sued to restrain defendant "from engaging in what the plaintiff claims to be unfair practices, by which its rights are violated and the public is deceived." It appeared that defendant pretended to be a distributing